

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**XIOMARA LINARES**

**Plaintiff,**

**v.**

**COSTCO WHOLESALE CORPORATION,**

**Defendant.**

No. 19-cv-18174 (KM)(JBC)

**ORDER**

This matter having come before the Court on the Report and Recommendation (“R&R”) (DE 25) of the Honorable James B. Clark, United States Magistrate Judge, recommending that this Court dismiss Plaintiff Xiomara Linares’ Complaint without prejudice pursuant to Fed. R. Civ. P. 37(b)(2), 41(b) for failure to respond to court orders and for failure to prosecute;

**AND IT APPEARING** that Defendant Costco Wholesale Corporation has filed an Objection (DE 26) to the R&R pursuant to Fed. R. Civ. P. 72(b)(2), to the extent the R&R does not dismiss Plaintiff’s Complaint with prejudice;

**AND IT FURTHER APPEARING** that the Court, having considered all the foregoing and reviewed *de novo* the Magistrate Judge’s R&R and Defendant’s Objection to the R&R, finds no clear error of fact, abuse of discretion, or error of law, and agrees with Judge Clark’s well-reasoned analysis;

**AND THE COURT** having decided the matter without oral argument pursuant to FED. R. CIV. P. 78; for good cause shown, and for the reasons stated in the R&R:

**IT IS** this 5th day of July, 2022,

**ORDERED** that Defendant's Objection (DE 26) is rejected, Judge Clark's Report and Recommendation (DE 25) is **ADOPTED**, with the following exception;

**IT IS FURTHER ORDERED** that Plaintiff's Complaint (DE 1) is **DISMISSED** without prejudice, but that if the Plaintiff does not make a motion to reopen the case, accompanied by a showing of good cause, within 30 days, this will automatically become a **dismissal with prejudice** without further order of the Court.

The Clerk shall close the file.

/s/ Kevin McNulty

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**KEVIN MCNULTY**  
**United States District Judge**